

Title	Amended Pleadings and Amendments to Pleadings (amend Cal. Rules of Court, rule 327)
Summary	Rule 327 on amended pleadings and amendments to pleadings would be amended to (1) clarify the contents of a motion to amend a pleading; (2) require that such a motion be supported by a declaration containing specific information; and (3) provide that the court may require an amended pleading rather than an amendment to a pleading.
Source	Civil and Small Claims Advisory Committee
Staff	Patrick O'Donnell, Committee Counsel (415-865-7665).
Discussion	<p>Rule 327 concerns amendments to and amended pleadings. This rule would be revised in several aspects.</p> <p>First, subdivision (a) of rule 327, on the contents of a motion to amend a pleading, would be amended to specify the required contents in greater detail. Second, new subdivision (b) would require that a motion to amend a pleading be supported by a declaration that explains the effect of the amendment, why the amendment is necessary and proper, when the facts giving rise to the amendment were discovered, and why the request for amendment was not made earlier. Third, new subdivision (c) would state that courts may require the filing of an entire previous pleading, with the approved amendments incorporated into it. This provision reflects that it is the better practice to file amended pleadings rather than amendments to pleadings.</p> <p>Rule 327 has also been modified to reflect the policy favoring the use of plain language in the California Rules of Court.</p>
Attachment	

PROPOSAL

Rule 327 of the California Rules of Court would be amended, effective January 1, 2002, to read:

1 **Rule 327. ~~Amendments to and~~ Amended pleadings and amendments to**
2 **pleadings**
3

4 (a) **[Contents of motion]** A motion to amend a pleading before trial ~~shall~~
5 must:
6

7 (1) include a copy of the proposed amendment or amended pleading;
8 which must (2) state the effect of the amendment; (3) be serially
9 numbered to differentiate the amendment it from previous
10 pleadings or amendments; and (4) state the page, line number, and
11 wording of any proposed interlineation of material.
12

13 (2) state what allegations in the previous pleading are proposed to be
14 deleted, if any, and where, by page, paragraph, and line number,
15 the deleted allegations are located; and
16

17 (3) state what allegations are proposed to be added to the
18 previous pleading, if any, and where, by page, paragraph, and line
19 number, the additional allegations are located.
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21 (b) **[Supporting declaration]** A separate declaration must accompany the
22 motion and must specify:
23

24 (1) the effect of the amendment;
25

26 (2) why the amendment is necessary and proper;
27

28 (3) when the facts giving rise to the amended allegations were
29 discovered; and
30

31 (4) the reasons why the request for amendment was not made earlier.
32

33 (c) **[Form of amendment]** The court may deem a motion to file an
34 amendment to a pleading to be a motion to file an amended pleading
35 and require the filing of the entire previous pleading, with the approved
36 amendments incorporated into it.

1 ~~(b)~~(d) **[Requirements for amendment to a pleading]** An amendment to a
2 pleading shall designate the pages and lines of the pleading being
3 amended. ~~An amendment shall~~ must not be made by alterations on
4 the face of a pleading except by permission of the court. All
5 alterations ~~shall~~ must be initialed by the court or the clerk.